

Deadline = 8/4/02

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To: KELLY A GARDNER
SCIENTIFIC-ATLANTA, INC.
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LAWRENCEVILLE, GA 30044

PCT

WRITTEN OPINION

(PCT Rule 66)

RECEIVED
JUN 11 2002

SCIENTIFIC-ATLANTA, INC.
LEGAL DEPARTMENT

04 JUN 2002

Date of Mailing
(day/month/year)

Applicant's or agent's file reference

F-6388-PC

REPLY DUE

within TWO months
from the above date of mailing

International application No.

PCT/US01/10874

International filing date (day/month/year)

02 APRIL 2001

Priority date (day/month/year)

03 APRIL 2000

International Patent Classification (IPC) or both national classification and IPC
IPC(7): H04N 7/025, 7/10, 7/178 and US Cl.: 725/25, 32, 34, 86, 87, 101, 104

Applicant

SCIENTIFIC-ATLANTA, INC.

1. This written opinion is the first _____ (first, etc.) drawn by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I Basis of the opinion
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step or industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

3. The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 02 AUGUST 2002

Name and mailing address of the IPEA/US

Commissioner of Patents and Trademarks
Box PCT
Washington, D.C. 20231

Faxsimile No. (703) 305-5230

Authorized officer

VIVEK SRIVASTAV

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Rugenia Zagan

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International application No.

PCT/US01/10874

I. Basis of the opinion**1. With regard to the elements of the international application:*** the international application as originally filed the description:

pages 1-23, as originally filed
 pages NONE, filed with the demand
 pages NONE, filed with the letter of _____

 the claims:

pages 24-39, as originally filed
 pages NONE, as amended (together with any statement) under Article 19
 pages NONE, filed with the demand
 pages NONE, filed with the letter of _____

 the drawings:

pages 1-7, as originally filed
 pages NONE, filed with the demand
 pages NONE, filed with the letter of _____

 the sequence listing part of the description:

pages NONE, as originally filed
 pages NONE, filed with the demand
 pages NONE, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
 the language of publication of the international application (under Rule 48.3(b)).
 the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- contained in the international application in printed form.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority in written form.
 furnished subsequently to this Authority in computer readable form.
 The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
 The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages NONE
 the claims, Nos. NONE
 the drawings, sheets/fig. NONE

5. This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed".

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. statement**

Novelty (N)	Claims <u>(Please See supplemental sheet)</u>	YES
	Claims <u>(Please See supplemental sheet)</u>	NO
Inventive Step (IS)	Claims <u>(Please See supplemental sheet)</u>	YES
	Claims <u>(Please See supplemental sheet)</u>	NO
Industrial Applicability (IA)	Claims <u>(Please See supplemental sheet)</u>	YES
	Claims <u>(Please See supplemental sheet)</u>	NO

2. citations and explanations

Claims 1, 2, 10-15, 23-27, 29, 35, 37, 43-51, 53 lack novelty under PCT Article 33(2) as being anticipated by Kenner et al (5,956,716).

Considering claims 1, 14, 27, 35, 43, 47, 51 and 53, Kenner discloses a method for providing an alternate service upon accessing an unauthorized service comprising the steps of receiving form the server device and storing in the memory a service database and an authorization database, accessing the service database responsive to the subscriber attempting to access a desired channel, determining whether the subscriber is authorized for the first service, and presenting an alternative service according to the service database responsive to the subscriber being authorized to receive the first service (col 8 lines 14-43, col 10 lines 11-39, col 24 lines 47 - col 25 line 12, col 27 line 64 - col 28 line 29, accessing a desired channel met by television and settop).

Considering claims 2, 15, 45 and 49 Kenner discloses a database listing of services stored locally in the client device and authorizing a user for services thus inherently meeting the limitation of a client device receiving service databased and authorization database from a server device (col 8 lines 14-43, col 16 lines 14-61, col 24 line 47 - col 25 line 12).

Regarding claims 29, 37, 46 and 50 see rejection of claims 2, 15, 45 and 49 above.

Considering claims 10 and 28, Kenner discloses the claimed enhanced version since the enhanced version comprises additional material not provided in other versions (col 24 line 47 - col 25 line 12, col 27 line 64 - col 28 line 29).

Considering claims 11 and 24, Kenner discloses manipulating the downloaded version which meets the "record and save the first service" limitation (col 8 lines 15-40).

Considering claims 12 and 25, Kenner discloses one of the claimed functions (col 8 lines 34 - 40).

Considering claims 13 and 26, Kenner discloses a plurality of audio streams for different configurations thus meeting the "superior audio service quality" limitation (col 27 line 64 - col 28 line 17).

(Continued on Supplemental Sheet.)

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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.

V. 1. REASONED STATEMENTS:

The opinion as to Novelty was positive (YES) with respect to claims 3-9, 16-22, 28, 30-34, 36, 38-42, 52, 54.
The opinion as to Novelty was negative (NO) with respect to claims 1, 2, 10-15, 23-27, 29-35, 37, 43-51, 53.
The opinion as to Inventive Step was positive (YES) with respect to claims 3-9, 16-22, 30-34, 38-42.
The opinion as to Inventive Step was negative (NO) with respect to claims 1, 2, 10-15, 23-29, 35-37, 43-54.
The opinion as to Industrial Applicability was positive (YES) with respect to claims 1-54.
The opinion as to Industrial Applicability was negative (NO) with respect to claims NONE.

V. 2. REASONED STATEMENTS - CITATIONS AND EXPLANATIONS (Continued):

Considering claims 44 and 48, Kenner discloses the claimed determining configuration for a display device coupled to the client device (col 27 line 64 - col 28 line 17).

Claims 28, 36, 52, and 54 lack an inventive step under PCT Article 33(3) as being obvious over Kenner et al. Although Kenner fails to disclose the claimed limitations, it would have been obvious to one skilled in the art to modify Kenner to include the claimed limitations.

Regarding claims 28, 36, 52 and 54 Kenner fails to disclose the claimed wherein the display device is configured in a HDTV format so that the client device is configured to present a television service in HDTV format if available and in a standard format if HDTV format is unavailable, however, providing an option for a program in HDTV or standard TV would have been well known to give a user an option of selecting the service desired based on the user's choice and/or system requirements.

Claims 3-9, 16-22, 30-34 and 38-42 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest instructing a navigation module in the client device to receive the desired channel request, wherein the navigational module polls the service application manager client to determine the first service that corresponds to the desired channel.

----- NEW CITATIONS -----

US 5,956,716 A (KENNER et al) 21 SEPTEMBER 1999, whole document